

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

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CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY

DEPUTY

EVERARDO MORALES, REYNALDO
MORALES, ANTONIO MORALES-PEREZ,
BRENDA VASQUEZ, et. al.

Plaintiffs,

v.

Juan Jose Balzadua D/B/A El Pollo
Regio LLC,

Defendant.

CIVIL ACTION NO.
A05-CA-634-LY

JOINT RULE 26(f) REPORT
OF DISCOVERY PLAN

NOW COME PLAINTIFFS, Evarardo Morales, et. al, and DEFENDANT, Juan Jose Balzadua d/b/a El Pollo Regio LLC, through their undersigned attorneys, and file this joint report on the discovery conference held by the parties in compliance with Fed. R. Civ. P. 26(f):

1. Pursuant to Fed. R. Civ. P. 26(f) a meeting was held on December 6, 2005 and was attended by:

- i. Victoria Gavito-Martin, attorney for Plaintiffs
- ii. Jessica Scott, attorney for Defendant.

2. Pre-discovery disclosures: The parties do not believe that there is any necessity for a change in the timing, form, or requirements of mandatory disclosures under Rule 26(a).

The parties will make their mandatory disclosures pursuant to Rule 26(a) no later than December 31, 2005.

3. Discovery Plan:

- a. At this time the parties believe that discovery will be needed on the following matters:
 - i. The Plaintiffs' hours of work and wages earned;
 - ii. Whether and to what extent Defendants complied with the terms of the work offered;
 - iii. Any affirmative defenses asserted by Defendants.
- b. All discovery will be commenced in time to be completed by February 28, 2006.
- c. A maximum of 50 interrogatories to each party.
- d. A maximum of 50 requests for admission to each party.
- e. The parties shall have 45 days to respond to interrogatories, requests for admission, and requests for production.
- f. A maximum of 5 depositions to be taken by each party, in addition to the parties themselves. Each deposition shall be limited to a maximum of 6 hours unless extended by agreement of the parties.
- g. Reports from retained experts under Rule 26(a)(2) due:
 - i. from party with burden of proof on issue by: February 15, 2006;
 - ii. from party opposing an issue by: February 15, 2006.
- h. Supplementation under Rule 26(e) due: January 31, 2006.
- i. The Plaintiffs will seek any electronic or computer based payroll or personnel information maintained by the Defendant in the ordinary course or business. The parties agree that Defendant will produce electronic or computer-based records, if any, in print-out hard copy and on disk in the form in which Defendants maintained them. The parties have taken all reasonable measures to preserve potentially discoverable data from alteration or destruction in the ordinary course of business or otherwise.

4. Other Items:

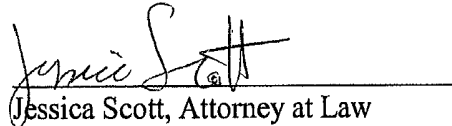
- a. The parties do not request a conference with the court before entry of the scheduling order;
- b. The parties should have until January 31, 2006 to amend its pleadings and add parties.
- c. All dispositive motions should be filed by March 1, 2006.

- d. Settlement: The parties cannot tell at this time whether settlement is or is not likely. The parties will advise the Court if it should appear that alternative dispute resolution would be appropriate and, in any event, will file a report in compliance with Local Rule CV-88 by January 30, 2006.

Respectfully Submitted,



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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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|--|---|------------------------------|
| Everardo Morales, Reynaldo Morales, | § | |
| Antonio Morales-Perez, Brenda Vasquez, et. | § | |
| al. Plaintiffs, | § | |
| | § | |
| V. | § | CAUSE NO. A- 05 -CA- 634 -LY |
| | § | |
| Juan Jose Balzadua D/B/A El Pollo Regio | § | |
| LLC, | § | |
| Defendant. | § | |

SCHEDULING ORDER

Pursuant to Rule 16, Federal Rules of Civil Procedure, the Court issues the following scheduling order.

IT IS ORDERED THAT:

1. A report on alternative dispute resolution in compliance with Local Rule CV-88 shall be filed on or before January 30, 2006.

2. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties on or before February 15, 2006, and each opposing party shall respond, in writing, on or before February 28, 2006. All offers of settlement are to be private, not filed, and the Court is not to be advised of the same. The parties are further ORDERED to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.

3. The parties shall file all amended or supplemental pleadings and shall join additional parties on or before January 31, 2006.

4. All parties asserting claims for relief shall file and serve on all other parties their designation of potential witnesses, testifying experts, and proposed exhibits, and shall serve on all other parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before December 31, 2005. Parties resisting claims for relief shall file and serve on all other parties their designations of potential witnesses, testifying experts, and proposed exhibits, and shall serve on all other parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before January 15, 2006. All designations of rebuttal experts shall be filed and served on all other parties within fifteen (15) days of receipt of the report of the opposing expert, and the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) for such rebuttal experts, to the extent not already served, shall be served, but not filed, on all other parties within fifteen (15) days of receipt of the report of the opposing expert.

5. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, within eleven (11) days of receipt of the written report of the expert's proposed testimony or within eleven (11) days of the expert's deposition, if a deposition is taken, whichever is later. **The failure to strictly comply with this paragraph will be deemed a waiver of any objection that could have been made pursuant to Federal Rule of Evidence 702.**

6. The parties shall complete discovery on or before February 28, 2006. Counsel may, by agreement, continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

7. All dispositive motions shall be filed and served on all other parties on or before March 1, 2006 and shall be limited to twenty (20) pages. Responses shall be filed and served on all other parties within eleven (11) days of the service of the motion and shall be limited to twenty (20) pages. Any replies shall be filed and served on all other parties within eleven (11) days of the service of the response and shall be limited to ten (10) pages, but the Court need not wait for the reply before ruling on the motion.

The parties shall not complete the following paragraph 8. It will be completed by the Court at the initial pretrial conference to be scheduled by the Court.

8. This case is set for final pretrial conference, in chambers, on the ____ day of _____, 20____, at _____ and _____ trial in the month of _____, 20____. The final pretrial conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties. The parties should consult Local Rule CV-16(e) regarding matters to be filed in advance of the final pretrial conference.

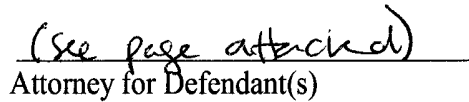
SIGNED this ____ day of _____, 20____.

LEE YEAKEL
UNITED STATES DISTRICT JUDGE

AGREED:



Attorney for Plaintiff(s)



Attorney for Defendant(s)

PLEASE CALL JANIE JONES IF YOU HAVE QUESTIONS: (512) 916-5896 ext. 234

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SIGNED this ____ day of _____, 20____.

LEE YEAKEL
UNITED STATES DISTRICT JUDGE

AGREED:

Attorney for Plaintiff(s)

Attorney for Defendant(s)

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